

1 NOT FOR PUBLICATION
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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 James Oliver Romine,

No. CV-16-00604-PHX-JJT

10 Plaintiff,

ORDER

11 v.

12 James Nicholas Stanton,

13 Defendant.

14

15 At issue are *pro se* Plaintiff James Oliver Romine's Motion for Leave to File
16 Amendment to Motion in Response to Motion to Dismiss Plaintiff's Original Complaint
17 (Doc. 22), Motion for Leave to File Excess Pages of Amendment to Motion in Response
18 to Motion to Dismiss Plaintiff's Original Complaint (Doc. 23), and Motion for Leave to
19 File a Supplemental Memorandum in Support of Amended Motion in Response to
20 Defendant's Motion to Dismiss Original Complaint (Doc. 27), to which Defendant James
21 Nicholas Stanton filed a Response in Opposition (Doc. 29).

22 Defendant's Motion to Dismiss (Doc. 19) and Plaintiff's original Response thereto
23 (Doc. 20) were filed on the same day. The next day, Plaintiff filed his first motion to
24 amend as well as a motion to exceed the page limit (Docs. 22, 23), both in order to amend
25 his Response. Because Plaintiff lodged his amended Response (Doc. 24) immediately
26 after filing his original Response and Defendant considered the amendment in preparing
27 his Reply, the Court will grant Plaintiff's first motion to amend and motion to exceed the
28 page limit (Docs. 22, 23).

1 However, Plaintiff filed another motion to amend his Response (Doc. 27) after
2 receiving Defendant’s Reply, and Defendant objects (Doc. 29) on the grounds that
3 Plaintiff’s second amendment is an impermissible Sur-Reply and does nothing but repeat
4 arguments made in the previous Responses. The Court agrees with Defendant. The Local
5 Rules of Civil Procedure do not permit a Sur-Reply, *see LRCiv 7.2*, and Plaintiff does not
6 argue that Defendant impermissibly made new legal arguments in his Reply, which might
7 have warranted a Sur-Reply. Accordingly, the Court must deny Plaintiff’s second motion
8 to amend his Response (Doc. 27).

9 **IT IS ORDERED** granting Plaintiff's Motion for Leave to File Amendment to
10 Motion in Response to Motion to Dismiss Plaintiff's Original Complaint (Doc. 22) and
11 Motion for Leave to File Excess Pages of Amendment to Motion in Response to Motion
12 to Dismiss Plaintiff's Original Complaint (Doc. 23). The Clerk of Court shall file on the
13 docket the document currently lodged at Doc. 24.

14 **IT IS FURTHER ORDERED** denying Plaintiff's Motion for Leave to File a
15 Supplemental Memorandum in Support of Amended Motion in Response to Defendant's
16 Motion to Dismiss Original Complaint (Doc. 27).

17 Dated this 28th day of June, 2016.

Honorable John J. Tuchi
United States District Judge